

March 6, 2006

BY UPS DELIVERY

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Re: Second Request for Information, dated December  
16, 2005; Oahu Sugar Company on Waipio  
Peninsula Portion of the Pearl Harbor Naval  
Complex Superfund Site; Bankruptcy Case No.  
05-15100 (N.D. Ill.)

Dear Mr. Mitani:

As you know, we represent Kaanapali Land LLC ("Kaanapali"). This letter, together with its attachments and the enclosed documents, constitutes the response of Kaanapali to the Information Request sent by John Chestnutt dated December 16, 2005 ("Information Request" or "Request").

We believe the Information Request is objectionable for various reasons. In short, the Request is beyond the scope of EPA's statutory authority. I will explain general objections in this letter; additional general objections are noted in the attachments. Notwithstanding these objections, and without waiving them, Kaanapali, which has never been determined to be a potentially responsible party, is providing the attached records (see Attachment A, appended to this letter). We note that we had to obtain some of these records from publicly available repositories maintained by the state of Hawaii. We include these records here for your convenience.

As you know, Oahu Sugar Company, LLC ("Oahu Sugar") filed a Chapter 7 bankruptcy petition on or about April 19, 2005. Pursuant to the Bankruptcy Code, Alex D. Moglia was appointed trustee ("Trustee") to oversee the administration of the estate of Oahu Sugar ("the Chapter 7 Debtor"). Under the Bankruptcy Code, the Trustee is the sole representative of the Chapter 7 Debtor's bankruptcy estate. Accordingly, to the extent the Information Request may be deemed to seek information concerning the ability of the Chapter 7 Debtor to pay for a cleanup, or otherwise seek information or records from the Chapter 7 Debtor's files, the Request is objectionable for attempting to invade the province of the Trustee under the Bankruptcy Code. Those requests should instead be directed to the Trustee.

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It appears that the questions are designed to attempt to determine whether Kaanapali or another entity may have secondary liability assuming that Oahu Sugar has liability for the Site in the first instance. As I believe you know, Kaanapali was neither an owner nor an operator at the subject Waipio site and never has been determined to be a potentially responsible party. To the extent the Information Request seeks information related to potential theories of liability that EPA might consider asserting against Kaanapali or another entity, the Request is objectionable as lacking statutory authority. As Mr. Chestnutt's letter acknowledges, under section 104(e) of CERCLA, 42 U.S.C. § 9604(e), on which the Information Request is based, EPA may require information or documents pertaining to three subjects:

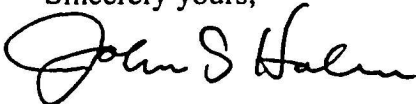
- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (C) Information relating to the ability of a person to pay for or perform a cleanup.

The statute thus does not authorize the instant Information Request, which does not purport to seek information regarding materials at the site, the nature of any release, nor the "ability of a person to pay for or perform a cleanup."

Finally, the Information Request is both perplexing and objectionable in light of the responsibility of the U.S. Navy at the subject site. As you know, the Navy owns the entire Pearl Harbor Naval Complex Superfund Site, and has broadly acknowledged its responsibility to address contamination there. The Navy occupied Waipio Peninsula during World War II and conducted operations there. Oahu Sugar subsequently occupied only a portion of the Waipio Peninsula, and did so pursuant to a lease with the Navy that ended in 1996. At that time the Navy indicated its complete satisfaction with the condition of the parcel vacated by Oahu Sugar.

Please call if you have any question or wish to discuss this matter.

Sincerely yours,



John S. Hahn